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LAW DEPARTMENT
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December 28, 2007

VIA HAND DELIVERY

Honorable Andrew J. Peck
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1370
New York, New York 10007-1312

MEMO ENDORSED *pe*

Re: Eddie Cotto v. Undercover John Doe Shield No.: 1133, et al.,
07 CV 7656 (LTS) (AJP)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department handling the defense of the above-referenced matter on behalf of defendant City of New York.¹ As Your Honor may be aware, defendant City of New York served and filed a motion to dismiss plaintiff's amended complaint in lieu of an answer today.²

As Your Honor may also be aware, pursuant to Your Honor's November 19, 2007 Order, discovery is scheduled to close on February 1, 2008 and there is a status conference scheduled for January 4, 2008 at 9:30 a.m. In light of defendant City's motion to dismiss, which we submit is fully dispositive of the claims in plaintiff's amended complaint, defendant respectfully requests an adjournment of the January 4, 2008 conference pending a

¹ This case has been assigned to Assistant Corporation Counsel Brian Francolla, who is presently awaiting admission to the bar, and is handling this matter under supervision. Mr. Francolla may be reached directly at (212) 788-0988.

² Upon information and belief, the individuals identified in the caption of the amended complaint as Detective Nelson Pabon, Detective Luis Ramos, Detective Undercover "John Doe," Shield #1133, and Sergeant Harrington have not been served with a copy of the summons and amended complaint in this action and are therefore not defendants at this time. As noted in defendant City's motion to dismiss, should any of these individuals be served in this action, defendant City respectfully submits that the arguments raised in its motion would be equally applicable to them.

decision on defendant's motion to dismiss. Furthermore, in light of defendant's motion to dismiss, we respectfully request that the Court stay discovery in this matter pending a decision on the motion.

I write directly to the Court since plaintiff is incarcerated and proceeding *pro se*.

In view of the foregoing, it is respectfully requested that the Court grant the within request. Thank you for your consideration.

Respectfully submitted,



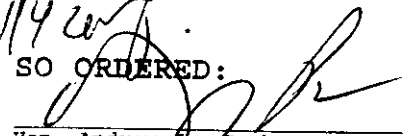
Sarah B. Evans
Assistant Corporation Counsel
Special Federal Litigation Division

cc: Mr. Eddie Cotto (By mail)
Plaintiff *Pro Se*
DIN # 06-R-5209
Mohawk Correctional Facility
6100 School Road
PO Box 8451
Rome, New York 13442-8451

MEMO ENDORSED 1/2/08

1 20 1/4 long undies scheduled.
2 10 1/2 long of drug case
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pages. Thus, as of now, the request for
a stay of discovery is denied, but in the
future should all 1/4 long.

SO ORDERED:



Hon. Andrew Jay Peck
United States Magistrate Judge

CMY: for Cotto (mail)
MSE
in Farrell's
Jefi Davis

BY FAX

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933
Telephone No.: (212) 805-0036

Dated: January 2, 2008

Total Number of Pages: 3

TO	FAX NUMBER
Sarah B. Evans, Esq. Brian Francolla, Esq.	212-788-9776

TRANSCRIPTION:

MEMO ENDORSED 1/2/08

1. The 1/4 conf. remains scheduled.
2. As to the stay of discovery issue, I am unable to determine if one is warranted because you did not provide me with a courtesy copy of the motion papers. Thus, as of now, the request for a stay of discovery is denied, but can be further discussed at the 1/4 conf.

**Copies to: Eddie Cotto (Mail)
Judge Laura Taylor Swain**